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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

6 \* \* \*

7 PRODUCE PAY, INC.,

8 Plaintiff(s),

9 v.

10 PRODUCERS INTERNATIONAL, INC.,

11 Defendant(s).

Case No. 2:16-CV-2451 JCM (CWH)

ORDER

12  
13 Presently before the court is plaintiff Produce Pay, Inc.'s motion for default judgment.  
14 (ECF No. 17).

15 Obtaining a default judgment is a two-step process. *Eitel v. McCool*, 782 F.2d 1470, 1471  
16 (9th Cir. 1986). First, "[w]hen a party against whom a judgment for affirmative relief is sought  
17 has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the  
18 clerk must enter the party's default." Fed. R. Civ. P. 55(a). Federal Rule of Civil Procedure  
19 55(b)(2) provides that "a court may enter a default judgment after the party seeking default applies  
20 to the clerk of the court as required by subsection (a) of this rule."

21 The choice whether to enter a default judgment lies within the discretion of the court.  
22 *Aldabe v. Aldabe*, 616 F.3d 1089, 1092 (9th Cir. 1980). In the determination of whether to grant  
23 a default judgment, the court should consider the seven factors set forth in *Eitel*: (1) the possibility  
24 of prejudice to plaintiff if default judgment is not entered; (2) the merits of the claims; (3) the  
25 sufficiency of the complaint; (4) the amount of money at stake; (5) the possibility of a dispute  
26 concerning material facts; (6) whether default was due to excusable neglect; and (7) the policy  
27 favoring a decision on the merits. 782 F.2d at 1471–72. In applying the *Eitel* factors, "the factual  
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1 allegations of the complaint, except those relating to the amount of damages, will be taken as true.”  
2 *Geddes v. United Fin. Grp.*, 559 F.2d 557, 560 (9th Cir. 1977); *see also* Fed. R. Civ. P. 8(d).

3 Plaintiff filed motions for entry of clerk’s default as to defendants Producers International,  
4 Inc. d/b/a Producers Fruit and Vegetable (“PII”) (ECF Nos. 11, 13) and Eduardo Reyes (ECF No.  
5 14). On February 13, 2017, the clerk entered default as to defendants PII and Reyes (ECF Nos.  
6 15, 16).

7 In the instant motion, plaintiff seeks a default judgment against defendants on all counts  
8 listed in its complaint. Counts one, two, three, five, and six relate to defendant’s violations of the  
9 Perishable Agricultural Commodities Act. (ECF No. 1). Count four is a breach of contract claim,  
10 and count seven is a violation of the Nevada Deceptive Trade Practices Act claim. *Id.* Plaintiff  
11 seeks judgment in the amount of \$426,711.83, plus interest. (ECF No. 17).

12 After considering the foregoing, the court finds good cause to grant plaintiff’s motion for  
13 default judgment. All of the *Eitel* factors favor judgment in plaintiff’s favor. *See Eitel*, 782 F.2d  
14 at 1471–72. Although plaintiff seeks a significant monetary judgment, the judgment is “reasonably  
15 proportionate to the harm caused by the defendant’s actions.” *Walters v. Statewide Concrete*  
16 *Barrier, Inc.*, 2006 WL 2527776, at \*4 (N.D. Cal. Aug. 30, 2006). Further, defendants’ failure to  
17 appear should not impact plaintiff’s ability to obtain compensation for its demonstrated losses. *See*  
18 *Pepsico, Inc. v. Cal. Security Cans*, 238 F. Supp. 2d 1172, 1177 (C.D. Cal. 2002). Moreover,  
19 plaintiff has properly complied with Rule 55. Therefore, the court will grant plaintiff’s motion for  
20 default judgment.

21 Accordingly,

22 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, that plaintiff’s motion for  
23 default judgment (ECF No. 17) be, and the same hereby is, GRANTED consistent with the  
24 foregoing.

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1 IT IS FURTHER ORDERED that plaintiff shall prepare and file an appropriate judgment  
2 for the court's signature consistent with the foregoing within fourteen (14) days of the entry of this  
3 order.

4 DATED February 27, 2018.

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6 UNITED STATES DISTRICT JUDGE